

August 19, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-20260  
Conference Calendar

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ALI REZA DADI,

Petitioner-Appellant,

versus

CHRISTINE G. DAVIS; JOSEPH HARO,

Respondents-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CV-3746  
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Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Ali Reza Dadi ("Dadi"), federal prisoner number 59270-079, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition for writ of habeas corpus as a successive or time-barred 28 U.S.C. § 2255 motion. Dadi argues for the first time on appeal that his petition was erroneously construed and erroneously transferred because he was challenging an INS detainer, not his convictions or sentence. Dadi also argues for the first time on appeal that the district court judge should

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

have recused himself. This court will consider an issue that is raised for the first time on appeal only if the issue "presents a purely legal question and failure to address it would result in grave injustice." Kelly v. Foti, 77 F.3d 819, 822 (5th Cir. 1996). Because no grave injustice would result from declining to consider Dadi's arguments and the recusal issue is not purely a legal question, the court will not consider the issues raised by Dadi. See id.

As there is no argument properly before this court, the appeal is frivolous and is dismissed as such. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

APPEAL DISMISSED.